

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MOMENTUM EMS, INC.,

Plaintiff,

VS.

KATHLEEN SEBELIUS,

Defendant.

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CIVIL ACTION NO. 4:11-CV-298

**ORDER ADOPTING MAGISTRATE'S
MEMORANDUM AND RECOMMENDATION**

Pending before the Court are the Objections filed by Plaintiff, Momentum EMS, Inc., to the Memorandum and Recommendation of United States Magistrate Judge George C. Hanks, Jr. (Dkt. 16). This case was referred to Judge Hanks pursuant to 28 U.S.C. § 636(b)(1)(B). (Dkt. 12). Pending before Judge Hanks were the Plaintiff's Motion for Summary Judgment (Dkt. 8) and Defendant's Motion for Summary Judgment. (Dkt. 11). On December 18, 2013, Judge Hanks filed a Memorandum and Recommendation recommending that the Plaintiff's motion for summary judgment be denied and the Defendant's Motion for Summary Judgment be granted. (Dkt. 15).

In accordance with 28 U.S.C. § 636(b)(1), this Court is required to "make a de novo determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection [has been] made." In this regard, the Court is permitted to "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.*; *see also* FED. R. CIV. P. 72(b)(3). The Court need not, however, consider objections that are conclusive, general

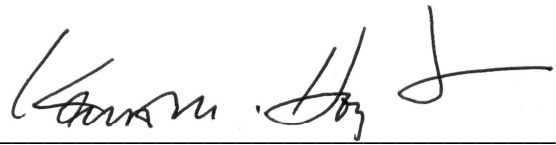
in nature or frivolous. *See Battle v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. Unit B 1982) (*en banc*) (overruled on other grounds).

Based on the pleadings, the record and the applicable law, the Court finds that Judge Hanks' Memorandum and Recommendation is well-grounded in law and in fact. Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

- (1) Judge Hank's Memorandum and Recommendation is **APPROVED AND ADOPTED** in its entirety as the holding of the Court; and
- (2) Plaintiff's objections to Judge Hanks' Memorandum and Recommendation are **OVERRULED**.

It is so **ORDERED**.

SIGNED on this 13th day of January, 2014.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge